

REMARKS

In the present response, claims 1, 18, and 37 are amended. No New matter in introduced (see, e.g., FIGS. 10, 24 and 37 and discussion in Applicants' published application thereof). Thus, claims 1-37 currently are currently pending, of which claims 1 and 18 are independent.

The present Office Action includes a rejection of under 35 U.S.C. §101, based on finding of non-statutory subject matter. In response to this rejection, claim 37 has been amended to recite a "tangible" computer readable medium to correct the noted informality. Accordingly, all of the present claims are in compliance with 35 U.S.C. §101 and no further rejection on such a basis is anticipated. If, however, the Examiner should disagree, the Examiner is invited to contact the undersigned attorney who will be happy to work with the Examiner in a joint effort to derive mutually satisfactory claim language.

The present Office Action further includes a rejection of claims 1-37 under 35 U.S.C. §102(e), as anticipated by Leung (USP 6,769,114). However, Applicants respectfully submit that Leung fails to disclose, teach or suggest all of the features recited in the pending claims. For example, independent claims 1 and 18, as amended, recite the novel features of "analyzing the source code under test to generate a map of the source code under test or a tree structure for the source code under test, and to generate a scan file of all or a portion of the map or tree structure of the source code under test."

By contrast, Leung is silent with respect to the novel feature of analyzing source code under test to generate a map of the source code under test or a tree structure for the source code under test, and to generate a scan file of all or a portion of the map or tree structure of the source code under test, in the manner claimed in independent claims 1 and 18, as amended. Advantageously, the claimed invention provides for processing of source code including a plurality of source code objects, as with beta testing, whereas the prior art, including Leung, merely process single source code objects, as with alpha testing. By contrast, Leung fails to disclose, teach or suggest the noted features or advantages of the invention recited in independent claims 1 and 18, as amended.

Accordingly, independent claims 1 and 18, as amended, are patentably distinguishable over Leung. The dependent claims 2-17 and 19-37 are allowable over Leung on their own merits, and for at least the arguments set forth above with respect to their independent claims 1 and 18.

The prior art that has been cited, but not applied by the Examiner, has been taken into consideration during formulation of this response. However, since this art was not considered by the Examiner to be of sufficient relevance to apply against any of the claims, no detailed comments thereon are believed to be warranted at this time.

In view of the foregoing, Applicants respectfully submit that the present application is in condition for allowance and a notice to that effect is respectfully requested. If, however, the Examiner deems that any issue remains after considering this response, the Examiner is invited to contact the undersigned attorney who will be happy to work with the Examiner in a joint effort to work out a mutually satisfactory solution and so as to expedite the prosecution of the present case.

Respectfully submitted,

NIXON PEABODY, LLP

/Carlos R. Villamar, Reg. # 43,224/

Carlos R. Villamar

Reg. No. 43,224

NIXON PEABODY LLP

CUSTOMER NO.: 22204

401 9th Street, N.W., Suite 900

Washington, DC 20004

Tel: 202-585-8000

Fax: 202-585-8080